IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 1ST NOVEMBER 2007 / 10TH KARTHIKA 1929

SA.No. 954 of 2001()

OS.415/1997 of PRL.M.C., KOCHI
AS.65/1999 of PRINCIPAL SUB COURT,KOCHI
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APPELLANTS:APPELLANTS:PLAINTIFFS:
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1. **CHANDRA BAI @ SANTHA P.SHENOI,**
   W/O. K.PURUSHOTHAMA SHENOI,
   D.NO.C.C.8/1666, ALATHUKUTTY ROAD, KOCHI – 2.

2. **K.PURUSHOTHAMA SHENOI,**
   S/O.KRISHNA SHENOI, ...DO...DO....

BY ADV. SRI.K.V.SADANANDA PRABHU

RESPONDENTS:RESPONDENTS:DEFENDANTS:
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1. **CHANDRAMATHI, W/O.LATE RAJAMONY, RESIDING AT UPSTAIR BUILDING BEARING D.NO.CC.8/1666, ALATHUKUTTY ROAD, KOCHI – 2.**

2. **ANIL KUMAR, S/O.RAMAN, RESIDING AT D.NO.CC.8/1664, ALATHUKUTTY ROAD, KOCHI – 2.**

3. **VIKRAMAN NAIR, S/O.JAGADEESAN NAIR, RESIDING AT D.NO.CC.8/1665,ALATHUKUTTY ROAD, KOCHI – 2.**

4. **BABY @ PURUSHOTHAMAN, RESIDING AT NORTH WEST PORTION OF BUILDING NO.C.C.8/1665, ALATHUKUTTY ROAD, KOCHI – 2.**

BY ADV. SRI.P.K.RAVISANKAR

THIS SECOND APPEAL HAVING BEEN FINALLY HEARD ON 01/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KSS

ORDER ON C.M.P.NO.2272/2001 IN S.A.NO.954/2001

DISMISSED

1/11/2007 **SD/- M.SASIDHARAN NAMBIAR,JUDGE**

/TRUE COPY/

P.A.TO JUDGE

KSS

M.SASIDHARAN NAMBIAR, J.

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S.A.No. 954 OF 2001

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DATED THIS THE 1st DAY OF NOVEMBER, 2007

JUDGMENT

Appeal was filed by two plaintiffs. When first appellant died, second appellant filed a memo to record second appellant as her sole legal heir. As per order dated 7.2.2006, it was found that second appellant is not the legal heir of first appellant. Second appellant was directed to implead the legal heirs of first appellant. Second appellant thereafter filed I.A. 657 of 2006 and 658 of 2006 to implead the legal heirs as respondents 5 to 12 and to set aside the abatement. Notices were not served to the proposed legal heirs. Meanwhile, second appellant also died on 13.12.2006. First respondent filed I.A.1715 of 2007 to dismiss the appeal as abated stating that in spite of death on 13.12.2006, legal heirs of second appellant were not impleaded. Even thereafter no steps was taken by legal heirs of second appellant to come on record. Learned counsel appearing for appellant submitted that legal heirs of deceased second appellant did not approach him. The appeal is therefore dismissed as abated.

M.SASIDHARAN NAMBIAR, JUDGE

lgk/-